

### REMARKS

It is noted that claims 1-9 are rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-5 of U.S. patent no. 6,689,404

Claims 2-4 are objected to.

The specification is objected to.

At the same time, claims 5-9 were not rejected over the art.

In connection with the Examiner's rejection of the claims under the judicially created doctrine of double patenting, applicants herewith submits a Terminal Disclaimer, and it is therefore believed that the grounds for the double patenting rejection are therefore eliminated.

In view of the Examiner's objection to the specification, the specification has been amended by canceling page 14. It is therefore believed that the grounds for formal objections and rejections are eliminated.

Since claims 5-9 were not rejected by the Examiner over the art, these claims have been amended to make them independent.

It is therefore believed that claims 5-9 should now be considered as being in allowable condition.

Claims 1-4 were rejected under 35 U.S.C. 102(b) over the reference Swolinski.

Claims 2 and 3 are rejected under 35 U.S.C. 102(b) over the references Swolinski in view of Food Proteins.


Claims 1-4 have been canceled without prejudice.

It is therefore believed that the present application now contains only the allowable claims.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,

  
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Please extend the term by  
2 months. The required fee  
is enclosed. If it is  
missing or insufficient  
please charge to 26-0080

